



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/555,494 06/01/00 JORDO

0 2000-0694A

EXAMINER

HM12/0829

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ART UNIT

PAPER NUMBER

1656

DATE MAILED:

08/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/555,494

Applicant(s)

JOHDO ET AL.

Examiner

Fariba Ghashghaee

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Horton et al.(US Pat. No. 4,201,773).

Horton discloses a series of compounds and derivatives of anthracycline with the limitations of the claimed invention(See Abstract and column 1, line 7-column6, line 34). Furthermore, Horton discloses the process for the crystallization, purification and identification of these compounds including the data obtained by X-ray powder diffraction for each one of the derivatives for example see column 5, line 36-column 6, line 10 and working examples 1-5.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al.(US Pat. 4,012,448).

Smith discloses a process for the synthesis of adrimycin and its derivatives and the purification and identification process with the limitations of the claimed invention(See Abstract and column 1, line 34-55). Smith et al. also discloses a process for the isolation and crystallization of these compounds (See columns 5-7 and examples

1-5). The use of X-ray powder diffraction method is a well known identification method used for the identification of chemical structures in the art.

Claims 1-6 rejected under 35 U.S.C. 102(b) as being anticipated by Arcomone et al. (US Pat. No. 4,025,623).

Arcomone et al. Discloses glycoside antibiotics and their activity in the vivo and vitro with the structural formulas that have the limitations of the claimed invention (See column 2, lines 1-50). Arcomone also discloses the process for the crystallization and purification and identification of these compounds (See examples 1-3, columns 5-8).

X-ray powder diffraction method is a well known method for the identification of the chemical formulas in the art.

Related References

The following References are considered but not used as prior art are:
Priebe et al. (US Pat. No. 5,874,412), Strohi et al. (US Pat. No. 5,962,293),
and (US Pat. No. 5,967,830) and Tanaka et al.(US Pat. 4,418,192).

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fariba Ghashghaee whose telephone number is (703)305-3586. The examiner can normally be reached on 8:30 A.M.-4:30 P.M. on Mon.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on (703)308-1152. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703)305-3014 for regular communications and (703)305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

Fariba Ghashghaee



August 27, 2001

 P.D.
KENNETH R. HORLICK
PRIMARY EXAMINER
GROUP 1600 8/27/01